

House Engrossed Senate Bill

FILED

MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

CHAPTER 185
SENATE BILL 1055

AN ACT

AMENDING SECTION 41-1027, ARIZONA REVISED STATUTES; RELATING TO EXPEDITED
RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-1027, Arizona Revised Statutes, is amended to read:

41-1027. Expedited rulemaking

A. An agency may conduct expedited rulemaking pursuant to this section if the rulemaking does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights of persons regulated and does one or more of the following:

1. Amends or repeals rules made obsolete by repeal or supersession of an agency's statutory authority.

2. Amends or repeals rules for which the statute on which the rule is authorized has been declared unconstitutional by a court with jurisdiction, there is a final judgment and no statute has been enacted to replace the unconstitutional statute.

~~3. Makes, amends or repeals rules that repeat verbatim existing statutory authority granted to the agency.~~

~~4. Makes, amends or repeals rules relating only to internal governmental operations that are not subject to violation by a person.~~

~~5.~~ 3. Corrects typographical errors, makes address or name changes or clarifies language of a rule without changing its effect.

~~6.~~ 4. Adopts or incorporates by reference without material change federal statutes or regulations pursuant to section 41-1028, statutes of this state or rules of other agencies of this state.

~~7.~~ 5. Reduces or consolidates steps, procedures or processes in the rules.

~~8.~~ 6. Amends or repeals rules that are outdated, redundant or otherwise no longer necessary for the operation of state government.

7. IMPLEMENTS, WITHOUT MATERIAL CHANGE, A COURSE OF ACTION THAT IS PROPOSED IN A FIVE-YEAR-REVIEW REPORT APPROVED BY THE COUNCIL PURSUANT TO SECTION 41-1056 WITHIN ONE HUNDRED EIGHTY DAYS OF THE DATE THAT THE AGENCY FILES THE PROPOSED EXPEDITED RULEMAKING WITH THE SECRETARY OF STATE.

8. ADOPTS, WITHOUT MATERIAL CHANGE, RULES OF ANOTHER AGENCY OF THIS STATE THAT HAS BEEN OR IMMINENTLY WILL BE CONSOLIDATED INTO THE AGENCY.

~~B. If the proposed expedited rulemaking is solely for a purpose prescribed in subsection A, paragraph 1, 3, 5 or 8 of this section, An agency shall notify DELIVER A NOTICE OF PROPOSED EXPEDITED RULEMAKING TO the governor, the president of the senate, the speaker of the house of representatives, THE COMMITTEE and the council of the proposed expedited rulemaking. The notice shall contain the name, address and telephone number of the agency contact person and the exact wording of the proposed expedited rulemaking and indicate how the proposed expedited rulemaking achieves the purpose prescribed in subsection A, paragraph 1, 3, 5 or 8 of this section.~~

~~C. If the proposed expedited rulemaking is for a purpose prescribed in subsection A, paragraph 2, 4, 6 or 7 of this section, an agency shall~~

1 ~~file a request for proposed expedited rulemaking with the governor and~~
 2 ~~notify the president of the senate, the speaker of the house of~~
 3 ~~representatives and the council of the request. The request shall contain~~
 4 ~~the name, address and telephone number of the agency contact person and~~
 5 ~~the exact wording of the proposed expedited rulemaking and an explanation~~
 6 ~~of how the proposed expedited rulemaking meets the criteria in subsection~~
 7 ~~A of this section.~~

8 ~~D. The governor may approve the request for expedited rulemaking if~~
 9 ~~the request complies with subsection A of this section.~~

10 ~~E. C. On delivery of the notice required in subsection B of this~~
 11 ~~section, or on approval by the governor of a request for proposed~~
 12 ~~expedited rulemaking the agency shall file a THE notice of the proposed~~
 13 ~~expedited rulemaking with the secretary of state for publication in the~~
 14 ~~next state administrative register. containing the information and~~
 15 ~~provisions of the proposed rulemaking filed with the governor pursuant to~~
 16 ~~subsection B or C of this section THE AGENCY AND THE COUNCIL SHALL POST~~
 17 ~~THE NOTICE OF PROPOSED EXPEDITED RULEMAKING ON THEIR RESPECTIVE WEBSITES~~
 18 ~~and SHALL allow any person to provide written comment to the agency for at~~
 19 ~~least thirty days after publication in the register, including objections~~
 20 ~~to the rulemaking because it does not meet the criteria pursuant to~~
 21 ~~subsection A of this section POSTING THE NOTICE. The agency shall~~
 22 ~~adequately respond in writing to the comments on the proposed expedited~~
 23 ~~rulemaking.~~

24 ~~F. D. An agency may not submit an A FINAL expedited rule to the~~
 25 ~~council that is substantially different from the proposed rule contained~~
 26 ~~in the notice of proposed expedited rulemaking. However, an agency may~~
 27 ~~terminate an expedited rulemaking proceeding pursuant to subsection K of~~
 28 ~~this section and commence a new rulemaking proceeding for the purpose of~~
 29 ~~making a substantially different rule. An agency shall use the criteria~~
 30 ~~prescribed in section 41-1025, subsection B for determining whether an A~~
 31 ~~FINAL expedited rule is substantially different from the published~~
 32 ~~proposed expedited rule.~~

33 ~~G. E. After adequately addressing, in writing, any written~~
 34 ~~objections, an agency shall file a request for approval with the council.~~
 35 ~~The request shall contain the notice of proposed FINAL expedited~~
 36 ~~rulemaking filed with the secretary of state pursuant to this section and~~
 37 ~~the agency's responses to any written comments. The council may require a~~
 38 ~~representative of an agency whose proposed expedited rulemaking is under~~
 39 ~~examination to attend a council meeting and answer questions. The council~~
 40 ~~may communicate to the agency its comments on the proposed expedited rule~~
 41 ~~making RULEMAKING within the scope of subsection A of this section and~~
 42 ~~require the agency to respond to its comments or testimony in writing. A~~
 43 ~~person may submit written comments to the council that are within the~~
 44 ~~scope of subsection A of this section.~~

1 ~~F.~~ F. Before an agency files a notice of final expedited
2 rulemaking with the secretary of state, the council shall approve any
3 ~~proposed~~ expedited rulemaking. The council shall not approve the rule
4 unless:

5 1. The rule satisfies the criteria for expedited rulemaking
6 pursuant to subsection A of this section.

7 2. The rule is clear, concise and understandable.

8 3. The rule is not illegal, inconsistent with legislative intent or
9 beyond the agency's statutory authority.

10 4. The agency, in writing, adequately addressed the comments on the
11 proposed rule and any supplementary proposal.

12 5. If applicable, the permitting requirements comply with section
13 41-1037.

14 6. The rule is not a substantial change, considered as a whole,
15 from the proposed rule and any supplementary proposal.

16 7. The rule imposes the least burden and costs to persons regulated
17 by the rule.

18 ~~F.~~ G. On receipt of council approval, the agency shall file a
19 notice of final expedited rulemaking AND THE COUNCIL'S CERTIFICATE OF
20 APPROVAL with the secretary of state ~~that contains the information and~~
21 ~~provisions required in subsection B or C of this section and that the~~
22 ~~agency did receive approval from the council pursuant to this section.~~

23 ~~G.~~ H. The expedited rulemaking becomes effective ~~thirty days~~
24 ~~following publication~~ IMMEDIATELY ON THE FILING of the notice of final
25 expedited rulemaking.

26 ~~K.~~ An agency may terminate an expedited rulemaking proceeding on
27 approval of the governor and written notice to the president of the
28 senate, the speaker of the house of representatives and the council.

APPROVED BY THE GOVERNOR APRIL 24, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2017.

Passed the House April 17, 2017,

by the following vote: 54 Ayes,

4 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate January 26, 2017,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1055

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 20 17

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

19th day of April, 20 17

at 11:15 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 24th day of

April, 2017

at 9:54 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 24 day of April, 20 17

at 12:26 o'clock P M.

[Signature]
Secretary of State

S.B. 1055